

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

MARK PETERSON,

Plaintiffs,

vs.

CITY OF YAKIMA, TONY O'ROURKE,
MARK SOPTICH, and ANTHONY DOAN,

Defendants.

CASE NO. 1:18-CV-3136-TOR

CIVIL MINUTES

DATE: 8/31/2022

LOCATION: Yakima

JURY TRIAL – DAY THREE

JUDGE THOMAS O. RICE

Bridgette Fortenberry	LC 02	N/A	Allison Anderson
Courtroom Deputy	Law Clerk	Interpreter	Court Reporter
Casey M. Bruner / Matthew Z. Crotty / Matthew A. Mensik Plaintiff's Counsel		Megan M. Coluccio / Stuart Cassel / Ann Trivett Defendants' Counsel	

☒ **Open Court**

☐ **Chambers**

☐ **Telephonic**

8:21 am All parties present without the jury.

Ms. Coluccio addressed the Court regarding an issue concerning certain witness testimony the previous day and deposition testimony of Mr. Denman.

Mr. Crotty responded.

Mr. Crotty addressed the Court regarding the previous testimony concerning probable cause.

Ms. Coluccio advised the Court that their expert, Mr. Partin, is not available today so an associate may testify.

Mr. Brunner objected to switching expert witnesses.

Court: Mr. Partin will testify tomorrow if necessary.

**8:34 am Jury panel brought into open court.
All parties present with the jury.**

Cynthia Martinez resumed the stand, previously sworn to testify.

Cross-examination/direct examination by Ms. Coluccio.

Re-direct/cross-examination by Mr. Crotty.

Exhibit P-76 discussed with witness and published to the jury.

Exhibit D-585 discussed with witness and published to the jury.

Witness steps down and is excused.

9:02 am Alicia Stromme sworn to testify.

Direct examination by Mr. Brunner.

Cross-examination by Ms. Coluccio.

Re-direct by Mr. Brunner.

Re-cross by Ms. Coluccio.

Further re-direct by Mr. Brunner.

Witness steps down and is excused.

9:27 am Sean Black sworn to testify.

Direct examination by Mr. Brunner.

Exhibit P-118 discussed with witness and published to jury for demonstrative purposes only.

9:55 am Recess with Court's admonishment to jury.

10:09 am Reconvened with all parties present with the jury.

10:10 am Sean Black resumed the stand, previously sworn to testify.

Cross-examination by Ms. Coluccio.

Re-direct by Mr. Brunner.

Witness steps down and is excused.

10:21 am Mr. Brunner read the deposition testimony of Glenn Denman into the record with Mr. Sawyer Margolt reading the answers.

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Jury Trial

10:27 am **Tony O’Rourke sworn to testify via Zoom.**

Direct examination by Mr. Crotty.

**Exhibit P-98 discussed with witness and published to the jury.
Exhibit P-89 discussed with witness and published to the jury.
Exhibit P-84 discussed with witness and published to the jury.
Exhibit P-76 discussed with witness and published to the jury.
Exhibit P-75 discussed with witness and published to the jury.
Exhibit P-74 discussed with witness and published to the jury.**

11:07 am **Recess with Court’s admonishment to the jury.**

11:16 am **Reconvened with all parties present with the jury.**

Direct examination by Mr. Crotty continued.

Prior deposition testimony shown to witness to refresh recollection.

**Exhibit P-74 discussed with witness and published to the jury.
Exhibit P-71 discussed with witness and published to the jury.
Exhibit P-70 discussed with witness and published to the jury.
Exhibit P-69 discussed with witness and published to the jury.
Exhibit P-66 discussed with witness and published to the jury.**

Exhibit P-62 discussed with witness.

Mr. Crotty offered Plaintiff’s Exhibit P-62 for admission.

No objection by Defendants.

Court: Plaintiff’s Exhibit P-62 is admitted and published to the jury.

**Exhibit P-60 discussed with witness and published to the jury.
Exhibit P-55 discussed with witness and published to the jury.
Exhibit P-58 discussed with witness and published to the jury.
Exhibit P-59 discussed with witness and published to the jury.**

12:01 pm **Recess with Court’s admonishment to the jury.**

1:30 pm **Reconvened with all parties present with the jury.**

Tony O’Rourke resumed the stand via Zoom, previously sworn to testify.

Direct examination by Mr. Crotty continued.

Mr. Crotty provided a copy of Yakima City Council meeting minutes from January 7, 2014, to counsel and the Court, and discussed with the witness.

Exhibit P-125 discussed with witness.

Mr. Crotty offered Plaintiff's Exhibit P-125 for admission.

Objection by Plaintiffs.

Court: Sustained. Exhibit P-125 was not admitted or published to the jury.

Exhibit D-547 discussed with witness and published to the jury.

Exhibit P-71 discussed with witness and published to the jury.

Exhibit P-40 discussed with witness and published to the jury.

Mr. Crotty offered Exhibit P-43 for admission.

Objection by Defendants.

Side bar with counsel and the Court.

Court: Sustained. Exhibit was not admitted or published to the jury.

Exhibit P-37 discussed with witness and published to the jury.

Cross-examination/direct by Ms. Coluccio.

Re-direct by Mr. Crotty.

Exhibit P-69 discussed with witness and published to the jury.

Exhibit P-43 discussed with witness to refresh his recollection but not published to the jury.

2:48 pm Recess with Court's admonishment to the jury.

3:00 pm Reconvened with all parties present with the jury.

Mark Peterson sworn to testify.

Direct examination by Mr. Crotty.

Exhibit P-4 discussed with witness.

Mr. Crotty offered Plaintiff's Exhibit P-4 for admission.

Objection by Defendants.

Court: Overruled. Plaintiff's Exhibit P-4 is admitted and published to the jury.

Exhibit P-28 discussed with witness.

Objection by Defendants.

Sidebar with counsel.

Court: Plaintiff's Exhibit P-28 is not admitted or published to the jury.

3:56 pm Recess with Court's admonishment to the jury.

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Jury Trial

4:10 pm Reconvened with all parties present with the jury.*Direct examination by Mr. Crotty continued.**Cross examination by Ms. Collucio.***Exhibit D-604 discussed with witness.**

Ms. Collucio offered Defendants' Exhibit D-604 for admission.

No objection by Plaintiff.

Court: Defendants' Exhibit D-604 is admitted and published to the jury.**Exhibit D-606 discussed with witness.**

Ms. Collucio offered Defendants' Exhibit D-606 for admission.

No objection by Plaintiff.

Court: Defendants' Exhibit D-606 is admitted and published to the jury.**Exhibit D-605 discussed with witness.**

Ms. Collucio offered Defendants' Exhibit D-605 for admission.

No objection by Plaintiff.

Court: Defendants' Exhibit D-605 is admitted and published to the jury.**Exhibit D-610 discussed with witness.**

Ms. Collucio offered Defendants' Exhibit D-610 for admission.

No objection by Plaintiff.

Court: Defendants' Exhibit D-610 is admitted and published to the jury.*Re-direct by Mr. Crotty.*

Witness steps down and is excused.

4:58 pm Jury excused from open court with the Court's admonishment and instructions to return to court on September 1, 2022, to begin proceedings at 8:30 am.**4:59 pm** The Court and parties discussed the status of the case.
The Court instructed the parties to return to court at 8:00 a.m. to address jury instructions.**5:03 pm Court adjourned.**

CONVENED: 8:21 AM	RECESSED: 8:32 AM	TIME: 11 MINS	TOTAL: 6 HRS / 22 MINS
RECONVENED: 8:34 AM	RECESSED: 9:55 AM	1 HR / 21 MINS	
RECONVENED: 10:09 AM	RECESSED: 11 :07 AM	/ 58 MINS	
RECONVENED: 11:16 AM	RECESSED: 12 :01 PM	/ 45 MINS	
RECONVENED: 1:30 PM	RECESSED: 2:48 AM	1 HR/ 18 MINS	
RECONVENED: 3:00 PM	RECESSED: 3:56 PM	/ 56 MINS	
RECONVENED: 4:10 PM	ADJOURNED: 5:03 PM	/ 53 MINS	